# TRANSCRIPT OF RECORD.

## SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

## No. 235.

SANTA FE PACIFIC RAILROAD COMPANY, PLAINTIFF IN ERROR,

*vs.*

LAURETE HOLMES.

IN ERROR TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

FILED APRIL 19, 1905.

(19,719.)

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Print.

a No. 1084.

United States Circuit Court of Appeals for the Ninth Circuit.

SANTA FE PACIFIC RAILROAD COMPANY (a Corporation), Plaintiff in Error,
*vs.*
LAURETE HOLMES, Defendant in Error.

*Transcript of Record.*

Upon Writ of Error to the United States Circuit Court for the Southern District of California.

1 United States Circuit Court of Appeals, for the Ninth Circuit.

SANTA FE PACIFIC RAILROAD COMPANY (a Corporation), Plaintiff in Error,
*vs.*
LAURETE HOLMES, Defendant in Error.

*Order Extending Time to Docket Cause.*

Good cause appearing therefor, it is hereby ordered that the time heretofore allowed said plaintiff in error to docket said cause and file the record thereof with the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, be, and the same hereby is, enlarged and extended to and including the 1st day of June, 1904.

Dated at Los Angeles, California, April 19th, 1904.

OLIN WELLBORN,
*United States District Judge for the Southern District of California.*

[Endorsed:] No. 1084. United States Circuit Court of Appeals for the Ninth Circuit. Sante Fe Pacific Railroad Company (a Corporation), Plaintiff in Error *vs.* Laurete Holmes, Defendant in Error. Order Extending Time to Docket. Filed Apr. 21, 1904. F. D. Monckton, Clerk.

2 *Writ of Error.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the Judges of the Circuit Court of the United States, of the Ninth Judicial Circuit, in and for the Southern District of California, Greeting:

Because in the record and proceedings, and also in the rendition of the judgment of a plea which is in the said Circuit Court, before you between Laurete Holmes, plaintiff, and the Santa Fe Pacific Rail-

road Company (a Corporation), defendant, a manifest error hath happened, to the great damage of the said defendant, the Santa Fe Pacific Railroad Company, a corporation, as by its complaint appears, and it being fit, that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have he same at San Francisco, in the State of California, on the 26th day of April next, in the said United States Circuit Court of Appeals, to be there and then held, that the record and proceedings aforesaid being inspected
the said United States Circuit Court of Appeals may cause
3 further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

Witness, the Hon. Melville W. Fuller, Chief Justice of the United States, this 28th day of March, in the year of our Lord one thousand nine hundred and four, and of the Independence of the United States the one hundred and twenty-eighth.

WM. M. VAN DYKE.
[SEAL.] *Clerk of the Circuit Court of the United States of America of the Ninth Judicial Circuit, in and for the Southern District of California.*

The above writ of error is hereby allowed.

OLIN WELLBORN,
*District Judge.*

I hereby certify that a copy of the within writ of error was on the 28th day of March, 1904, lodged in the clerk's office of the said United States Circuit Court, for the Southern District of California, for the said defendant in error.

WM. M. VAN DYKE,
*Clerk U. S. Circuit Court,*
*Southern District of California.*

[Endorsed:] 1027. United States Circuit Court of Appeals for the Ninth Circuit. Santa Fe Pacific Railroad Company (a
4 Corporation), Plaintiff in Error, *vs.* Laurete Holmes, Defendant in Error. Writ of Error. Filed Mar. 28, 1904. Wm. M. Van Dyke, Clerk.

*Citation.*

UNITED STATES OF AMERICA, *ss:*

To Laurete Holmes, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be held at

of San Francisco, State of California, on the 26th day of
A. D. 1904, pursuant to a writ of error on file in the clerk's
the Circuit Court of the United States, of the Ninth Judicial
in and for the Southern District of California, Southern
, in that certain action number 1027, wherein the Santa
ific Railroad, Company, a corporation, is plaintiff in error,
are defendant in error, to show cause, if any there be, why
gment given, made and rendered against the said, the Santa
fic Railroad Company, a corporation, in the said writ of error
ned, should not be corrected, and speedy justice should not be
that behalf.

ess the Honorable Olin Wellborn, United States District
for the Southern District of California, and one of the Judges
Circuit Court of the United States of America, of the Ninth
Judicial Circuit in and for the Southern District of Cali-
fornia, this 28th day of March, A. D. 1904, and of the Inde-
pendence of the United States, the one hundred and twenty-

OLIN WELLBORN,
*United States District Judge for the Southern District of California.*

dorsed:] No.——. United States Circuit Court of Appeals
Ninth Circuit. Santa Fe Pacific Railroad Company (a Cor-
on). Plaintiff in Error, *vs.* Laurete Holmes, Defendant in
Citation. Rec'd copy of the within this 28th day of March,
Waters & Wylie, Attys. for Plaintiff and Deft. in Error.
Mar. 28, 1904. Wm. M. Van Dyke, Clerk.

nswer of the Judges of the Circuit Court of the United States
America, of the Ninth Judicial Circuit, in and for the Southern
rict of California.

record and all proceedings of the complaint whereof mention
ain made, with all things touching the same, we certify under
al of our said Circuit Court, to the United States Circuit Court
peals for the Ninth Circuit, in a certain schedule to this writ
ed, as within we are commanded.

the Court:

[SEAL.] WM. M. VAN DYKE, *Clerk.*

6 In the Circuit Court of the United States, in and for the Ninth Circuit, Southern District of California. At Law.

LAURETE HOLMES, Plaintiff,
*vs.*
SANTA FE PACIFIC RAILROAD COMPANY, Defendant.

*Complaint.*

Plaintiff for cause of action against the defendant, alleges:

I.

That the plaintiff is now, and at all times mentioned herein, he was, a citizen of the State of Texas.

II.

That the defendant is now, and at all times mentioned herein, it was, a corporation organized and existing under the laws of the United States, having its principal place of business at and being a resident of Los Angeles, in the State of California.

III.

That at all times mentioned in this complaint, defendant was the owner, and in the possession of, and engaged in the oper-
7 ation of, that certain railroad, situated and being in the Territories of New Mexico and Arizona, and in the State of California, its line of railroad extending from Albuquerque, in the Territory of New Mexico to Needles, in the State of California, and said defendant, at all of the times mentioned in this complaint, was operating thereon, its cars, engines, trains and rolling-stock.

IV.

That on the 20th day of November, 1901, plaintiff was in the employ of defendant in the capacity of locomotive engineer, upon said railroad of the defendant, upon the division thereof extending from Needles, California, to Winslow, in the Territory of Arizona, and as such engineer, so in the service of the defendant, was engaged in running engine No. —, attached to and propelling train No. Four, when, at a point upon said railroad near Franconia, without any fault on the part of plaintiff, and solely by reason of negligence and want of care on the part of defendant, the engine upon which plaintiff was so performing his duty as engineer, came in violent collision with an engine and train operated in the opposite direction by the defendant, by reason of which said collision this plaintiff was thrown from the cab of said engine to the ground, and was jammed between oil tank and the ground, by reason of which, plaintiff sustained the following described personal injuries, to wit: A broken and comminuted lower jaw, and the loss of all of his teeth on

both upper and lower Maxillae on the left side back of the canine teeth, and a contused and lacerated wound of left side of his
8 head, and a contused and lacerated wound across his nose and face, and *dislocation* of his right eye, and contusion, laceration, and concussion of the back, and contusion and concussion of the head, brain, spinal column and spinal cord, and other internal injuries.

That, by reason of the injuries so sustained by this plaintiff by and through the negligence of defendant, plaintiff has been damaged in the sum of fifty thousand dollars.

Wherefore, plaintiff asks judgment against defendant for $50,000, and for costs of suit.

BYRON WATERS,
WATERS & WYLE,
*Attorneys for Plaintiff.*

[Endorsed:] No. 1027. In the U. S. Circuit Court, Ninth Circuit, Southern District of California, Southern Division. Laurete Holmes, Plaintiff, *vs.* Santa Fe Pacific Railroad Company, Defendant. Complaint. Filed Jul. 1, 1902. Wm. M. Van Dyke, Clerk. Waters & Wylie, 134½ N. Spring St., Tel. M. 1222, Los Angeles, Cal., Attorneys for Plaintiff.

9 UNITED STATES OF AMERICA

Circuit Court of the United States, Ninth Circuit, Southern District of California, Southern Division.

LAURETE HOLMES, Plaintiff,
*vs.*
SANTE FE PACIFIC RAILROAD COMPANY, Defendant.

Action brought in the said Circuit Court, and the complaint filed in the office of the clerk of said Circuit Court, in the city of Los Angeles, County of Los Angeles.

*Summons.*

The President of the United States of America, Greeting, to the Santa Fe Pacific Railroad Company:

You are hereby required to appear in an action brought against you by the above-named plaintiff, in the Circuit Court of the United States, Ninth Circuit, in and for the Southern District of California, and to file your plea, answer of demurrer, to the complaint filed therein (a certified copy of which accompanies this summons), in the office of the clerk of said court, in the city of Los Angeles, county of Los Angeles, within twenty days after the service on you
10 of this summons, or judgment by default will be taken against you.

The said action is brought to recover judgment against defendant